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ABSTRACT

This booklet delineates the educational rights of Texas parents, their handicapped children, and adult handicapped students. Twenty key terms used in the booklet, such as surrogate parent, adult handicapped student, and mediation, are defined in the first section. Rights of parents and students are described in each of the areas covered in the booklet, including: specific notice of meetings, services, and actions; comprehensive individual assessment; independent educational evaluation; Admission, Review, and Dismissal Committee; Individual Educational Plan development; related services; educational placement; extracurricular activities; discipline of handicapped students; graduation; complaint, mediation, and hearing process; and procedures regarding education records. The booklet also includes information on agencies providing low-cost or free assistance and information to parents, and an explanation and chart presentation of the child-centered process used in Texas public schools. (CB)

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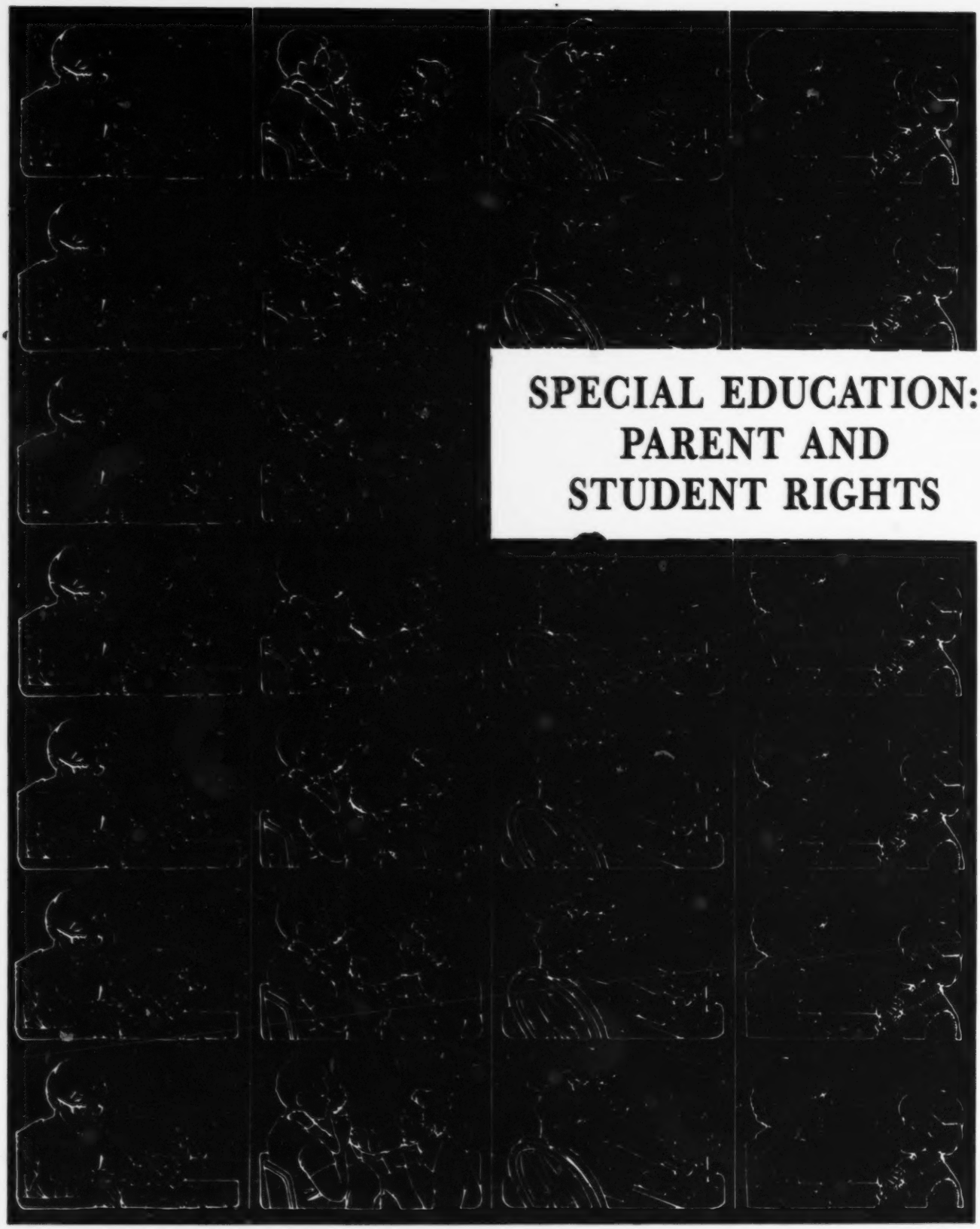

SPECIAL EDUCATION: PARENT AND STUDENT RIGHTS

TEXAS EDUCATION AGENCY
SEPTEMBER 1986

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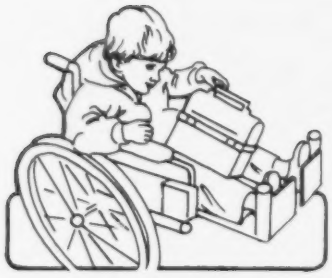

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Department of Special Education

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Dear Parent:

You and your local school district share the responsibility of educating your child. This booklet will tell you and adult handicapped students about your educational program rights. Someone from the school should go through this booklet with you. If there is something that you do not understand, be sure to ask for further information.

At this point in time, your child has either been referred for evaluation to see if there is a handicapping condition, or your child is already receiving special education instruction and related services. A general explanation of your educational rights is outlined in this booklet. The school will send you specific notices about meetings, testing, and services for your child.

We hope that this booklet and the specific notices that you will receive will help you know more about your rights and responsibilities and better prepare you to work with the school to help your child. Your support, attendance at school meetings, and your encouragement at home will help your child receive an appropriate education. Please feel free to contact the school or call the Child Find/Serve Hotline at the Texas Education Agency at 1-800-252-9668 if you have any questions or want to discuss any of this information. The name and phone number of the contact person is:

Copies of *Special Education: Parent and Students Rights* are also available in Spanish and Braille. Tape recordings are available in Spanish, English, and Vietnamese.

Very truly yours,

Victoria Bergin

Victoria Bergin
Deputy Commissioner for
Curriculum and Program Development

VB:JG:tjs

NOTE: Federal and state regulations pertaining to special education are detailed in the publication, *State Board of Education Rules for Handicapped Students*, which is available through Publications Distribution, Texas Education Agency, 1701 N. Congress, Austin, Texas 78701. The cost is $4.00, shipping and handling included.

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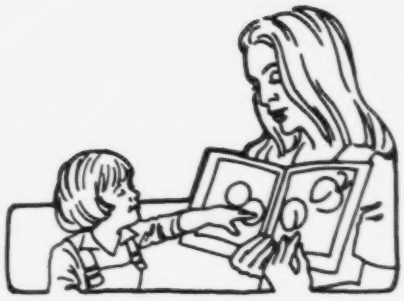
DEFINITION OF TERMS



Some terms which are used in this booklet and by school personnel are explained below:

HANDICAPPED STUDENTS——In general, students eligible for special education have the following handicaps: learning disabilities, speech impairments, physical handicaps, mental retardation, emotional disturbance, autism, multiple handicaps, pregnancy, visual handicaps, or hearing impairments that cause a need for special education and related services. To receive special education, handicapped students must be at least 3-years-old but under 22 on September 1. Hearing impaired and visually handicapped students may receive special education services from birth until reaching their 22nd birthday by September 1. *(19 Texas Administrative Code (TAC) 89.211, 89.220; Title 34 Code of Federal Regulations (34 CFR) 300.5, 300.300)*

PARENT——"Parent" as used in this booklet means a natural or adoptive parent or a guardian, a surrogate parent, someone acting in place of a parent (i.e., grandmother or stepparent with whom a child lives), or someone who is legally responsible for the child. The term parent also applies to an adult handicapped student. *(34 CFR 300.10, 300.574)*

SURROGATE PARENT——A surrogate parent is required when a minor student's parents are unknown or cannot be found, or the student has been declared incompetent or is a legal ward of the state. A surrogate parent represents the student as a parent would in all matters of identification, evaluation, educational placement, and provision of a free, appropriate public education. The school district determines when a surrogate parent is needed and assigns one to the student. *(19 TAC 89.230; 34 CFR 300.514)*

ADULT HANDICAPPED STUDENT——A student becomes a legal adult upon reaching 18 years of age or upon marrying, unless a court has declared the student imcompetent. This student assumes all the rights of parents in this booklet. The school must treat the student as an adult. *(34 CFR 99.4(a), 300.574 (Comment); 19 TAC 89.221(h)(3)(B))* Parents do not continue to have those rights without their adult child's written permission. However, continued participation of parents, with student permission, is encouraged. For more information about the adult handicapped student's rights and the role of a parent, get in touch with your school contact person listed on the letter in the beginning of this booklet or one of the agencies listed in the back of this booklet.

FREE APPROPRIATE PUBLIC EDUCATION——All handicapped students have the right to a free, appropriate public education, including special education and related services. The public school provides these services at the preschool, elementary, and secondary levels at no cost to parents. Visually handicapped and hearing impaired children may receive services from birth, also at no cost. The programs and services must meet Texas Education Agency standards and must follow the goals and objectives stated in the student's individual educational plan (IEP). *(34 C.F.R. 300.1, 300.4; Texas Education Code (TEC) Section 21.503(a))*

INDIVIDUAL EDUCATIONAL PLAN (IEP)——The individual educational plan (IEP) is developed by the admission, review, and dismissal (ARD) committee; it includes educational goals and objectives for your child. It documents the services your child needs and how they will be provided, as well as indications of his or her progress. *(19 TAC 89.223)*

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE (ARD)——The admission, review, and dismissal (ARD) committee determines if a student is eligible to receive special education services. The committee also plans the educational program of each student eligible for special education. The ARD committee members include at least one parent, the student when appropriate, and others as provided under State Board of Education rules. *(34 CFR 300.344; 19 TAC 89.221)*

PRIOR NOTICE——The school must give you written information about actions or proposed actions as specified in this booklet. The next section of this booklet explains when the school must provide this information to you. Whenever possible, all notices will be written in your native language. If this is not possible, the school will use other means to make sure that you understand the information in the notice. If you have any questions, the school contact person listed on the letter in the beginning of this booklet will provide additional information. *(34 CFR 300.504, 300.505)*

LEAST RESTRICTIVE ENVIRONMENT——Your child has the right to an education in a setting with children who are not handicapped to the maximum extent appropriate. This is known as the least restrictive environment.

CONSENT——Your written permission is required before the school initially tests your child for special education or places your child in special education for the first time. Your written consent is also needed, in most instances, before the school can release confidential information from your child's education records. You should be fully informed by the school and understand the actions for which your permission is being requested. Consent is voluntary and may be withdrawn in writing at any time. However, if you revoke consent after the initial placement, your child's placement will remain unchanged unless: (a) you and the school agree otherwise (following ARD committee procedures) or (b) a due process hearing resolves the dispute.

TEXAS EDUCATION AGENCY (AGENCY)——The Texas Education Agency is responsible for the public education of all students in the state. As the state's department of education, the Agency works with local schools to see that all public education laws, rules, and regulations are followed.

MEDIATION—— You and the school may not always agree on your child's educational program. Disagreements may be resolved through an impartial third party—a mediator. During mediation, you voluntarily meet with a school representative and the mediator to review your child's educational plan and work out solutions that are satisfactory to both you and the school. A description of how to use the mediation process begins on page 15 under the heading, "If You Have a Problem."

DUE PROCESS HEARING—A due process hearing is a legal procedure used to solve disagreements concerning the education of handicapped students. An impartial hearing officer conducts the hearing and makes decisions about the issues at hand. A full description of the hearing process and how to use it begins on page 16 under the heading, "Hearing Process."

GRADUATION—"Graduation" is the completion of all required parts of an educational program. For the handicapped student, graduation means release from services. The student may graduate under IEP provisions with ARD committee approval and your consent or graduate by completing the same program required of nonhandicapped students without your consent.

TEXAS EDUCATIONAL ASSESSMENT OF MINIMUM SKILLS (TEAMS)—The "TEAMS" is a test administered in the 1st, 3rd, 5th, 7th, 9th, and 11th grades to measure student mastery of basic skills such as mathematics and language arts. The ARD committee decides if your child should take the TEAMS.

TEXAS STATE CURRICULUM (CHAPTER 75)—As a result of Texas educational legislation passed in 1981, a well-balanced curriculum must be provided to every student. This includes 13 subject areas for kindergarten through twelfth grade. Essential elements of instruction have been designated for each subject and grade level. This mandated curriculum is included in Chapter 75 of the Texas Administrative Code.

ESSENTIAL ELEMENTS—Essential elements are the minimum components established by the State Board of Education which identify the knowledge, skills, and competencies that teachers are expected to teach in each course at each grade level.

CODE OF FEDERAL REGULATIONS (CFR)—The *Code of Federal Regulations* (CFR), cited many times in this booklet, contains the rules of the federal government. All agencies and facilities receiving funds under a federal law covered in this document must follow these rules. This includes all local school districts accredited by the Agency.

TEXAS EDUCATION CODE (TEC)—The *Texas Education Code* (TEC) is a publication that contains all laws passed by the Texas legislature concerning education.

TITLE 19 TEXAS ADMINISTRATIVE CODE (19 TAC)—The *Texas Administrative Code* (TAC) contains all regulations for all state agencies in Texas. *Title 19 Texas Administrative Code* (19 TAC) includes all regulations concerning education. These rules are passed by the State Board of Education.

All rules in the *Code of Federal Regulations, Texas Education Code,* and *Title 19 Administrative Code* pertaining to special education are included in the Agency publication, ***State Board of Education Rules for Handicapped Students***.

THE CHILD-CENTERED EDUCATIONAL PROCESS

Students in Texas go through a child-centered educational process in order to receive special education. It is called "child-centered" because the major goal is to meet each child's needs. Once your child is referred for consideration for special education services, the following steps are taken:

- parental consent for testing
- a comprehensive individual assessment (testing) is completed
- an admission, review, and dismissal (ARD) committee meeting is held

If your child is eligible for and needs special education, the following steps are taken:

- an individual educational plan (IEP) for provision of individualized instruction and related services is developed
- the individual educational plan is reviewed at least annually

This booklet explains your rights at each stage of the process.

SPECIFIC NOTICE

The school must give you specific, written notice of definite meetings, dates, times, services, facts or actions concerning the identification, assessment, or educational placement of your child. The notice must include:

- reference to certain parent rights (notice, consent, hearings, protection in assessment procedures, least restrictive environment, confidentiality of information);
- what the school is proposing to do;
- why the school wants to take the action;
- what alternatives the school considered before taking the action;
- why these alternatives were rejected;
- a description of the tests, records, reports the school used to make the decision; and
- any other relevant factors.

Notice must be given at least five school days before the proposed action unless you agree in writing to a shorter time period. *(34 CFR 300.504, 300.505; 19 TAC 89.229(b))*

COMPREHENSIVE INDIVIDUAL ASSESSMENT

"Comprehensive individual assessment" is the testing done when your child is referred to special education. The test results will be used by the ARD committee to determine whether or not your child meets certain state and federal guidelines regarding handicapping conditions and whether special education is needed. Testing is also used to design an educational program. The assessment may include printed tests, observations, parent input, and other forms of information. Eligibility and need for special education services must be reviewed every three years as long as your child is in special education. This retesting may be done more often if conditions warrant or if requested by you or the school. *(34 CFR 300.531, 300.534; 19 TAC 89.233)*

In the comprehensive individual assessment, you have the right to:

- be given written notice before the school assesses or refuses to assess your child *(34 CFR 300.504; 19 TAC 89.229(b))*;
- be given information about the abilities, skills, and knowledge to be assessed;
- give your consent before the school assesses your child for the first time;
- be given a description and explanation of the procedures, tests (with examples), records, or reports to be used in the evaluation *(34 CFR 300.505(a)(3))*;
- inspect and review all assessment records before the ARD committee meeting *(34 CFR 300.562)*;
- have the results of these assessments considered at the ARD committee meeting *(19 TAC 89.221(b)(1))*;
- be assured that tests and other assessment materials will be in your child's native language or other mode of communication *(34 CFR 300.532(a)(1))*;
- be assured that no single procedure will be used as the sole basis for determining your child's educational program *(34 CFR 300.532(d))*;
- present a written complaint to the Texas Education Agency if you feel that a federal or state rule concerning the assessment process is not being followed *(34 CFR 76.780(a))*;
- request the Secretary of Education to review the final decision of the Agency regarding the complaint *(34 CFR 76.780(c))*; and
- request mediation or a due process hearing if agreement on assessment procedures or results cannot be reached. *(34 CFR 300.506(a); 300.506 Comment; 19 TAC 89.229(c))*

In the comprehensive individual assessment process, the student has a right to:

- be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, sociological and emotional status, general intelligence, academic performance, communication skills, and motor abilities *(34 CFR 300.532(f); 19 TAC 89.233)*;
- be tested with instruments designed for the specific purpose for which they are used *(34 CFR 300.532(a)(2))*;
- be tested in a way that is not racially or culturally discriminatory *(34 CFR 300.530(b))*;
- be tested by qualified personnel *(34 CFR 300.532(a)(3))*; and
- be evaluated by a group of persons including at least one who is a specialist in the area of the suspected disability. *(34 CFR 300.532(e))*

The assessment must be finished and the report written within 30 school days from the date the district's special education staff received the referral. *(19 TAC 89.233(a))*

INDEPENDENT EDUCATIONAL EVALUATION

As part of the child-centered process, the school will conduct a comprehensive individual assessment of your child. If you disagree with all or part of the district's comprehensive individual assessment, you may ask the school to provide an independent assessment.

"Independent educational evaluation" means an assessment conducted by a qualified examiner not employed by the school. It is another way to determine whether your child needs special education or to identify specific needs that you feel were not identified by the district's assessment. As a parent, you have the right to obtain an independent assessment of your child's educational needs and abilities from qualified professionals of your choice at your expense. The school will tell you where you can get an independent assessment. The information from that assessment must be considered in any decision made about your child's school program.

If you ask for an independent educational assessment, the school must either pay for the independent assessment or request a hearing to show that the school's assessment was appropriate and that it is not responsible for an independent assessment.

If the hearing officer finds that the school's assessment was appropriate, then the school does not have to pay for the independent assessment. If it is found that the assessment was not appropriate, the school must pay for the independent assessment. Any assessment the school pays for must meet the criteria for testing as stated in its assessment procedures. The school has specific procedures which must be followed including the location of the evaluation and qualifications of the examiner. You should ask about these procedures before obtaining an independent evaluation if you expect the school to pay for it.

The results of an independent evaluation must be considered, along with all other pertinent information, by the ARD committee. The results may also be presented as evidence in any due process hearing. *(34 CFR 300.503)*

ADMISSION, REVIEW, AND DISMISSAL (ARD) COMMITTEE

The ARD committee decides the educational program and setting of a student referred for special education or currently receiving special education services. *(19 TAC 89.221(a); 34 CFR 300.343)* As an ARD committee member, you are an active partner with school personnel in planning your child's educational program.

The ARD committee is composed at least of the following voting members:

- you, the adult handicapped student, or a designated representative
- the student, when appropriate
- at least one representative from special education
- school administration representative
- a representative from instruction
- a representative from special education assessment, when needed (usually at the time of initial placement or three-year reevaluation), and
- other professionals named in the *State Board of Education Rules for Handicapped Students* if your child is visually handicapped, hearing impaired, limited English proficient, or being considered for vocational education. *(19 TAC 89.221(h))*

Other persons may participate in ARD committee meetings if you, the school district, or the student wants them there. *(19 TAC 89.221(h))*

The ARD committee's first task is to review the assessment and all other information collected to decide if the student is handicapped according to specified eligibility criteria. The second task of the ARD committee is to decide if the student needs special education instruction and related services. This decision must be made within 30 calendar days after the assessment report is completed for students referred for the first time. If the 30th day falls in the summer, the ARD committee has until the first day of classes in the fall to make the placement and individual educational plan decisions. *(19 TAC 89.221(d))*

If your child needs special education, the ARD committee develops an individual educational plan (IEP). The parent must be involved in the development. ARD committee meetings are scheduled by the school at least once a year to review your child's progress. However, you may request an ARD committee meeting at any time to discuss educational concerns such as placement, IEP goals, and extent of services provided. You are encouraged to confer informally with the school's special education personnel about problems or questions before asking for an ARD committee meeting. However, any change in placement must be made by the ARD committee.

In the admission, review, and dismissal committee process, you have a right to:

- receive written notice of scheduled ARD committee meetings. This notice must be given at least five school days before the meeting, unless you agree otherwise *(34 CFR 300.345(a); 19 TAC 89.229(b))*;
- receive written notice of what the school is proposing to do with your child as a result of the meeting;
- have the ARD committee meeting held at a time and place that is convenient for both you and the school. However, if you or the other parent cannot attend, the school will use other methods—telephone, letter, or personal conferences—to ensure your participation prior to or during the meeting. *(34 CFR 300.345(d))* If neither parent can attend, the school may conduct the meeting without you *(34 CFR 300.345(c)(d))*;
- have an interpreter present at the ARD committee meeting if you are hearing impaired or have a native language other than English *(34 CFR 300.354(c))*;
- take one or more persons to the ARD committee meeting to help or represent you *(34 CFR 300.344(a)(5); 19 TAC 89.221(h))*;
- be actively involved in the ARD committee meeting when the IEP is developed and placement determined, and vote on these matters *(19 TAC 89.221(h))*;
- be given information about the Texas School for the Blind or Texas School for the Deaf if your child is visually or auditorially handicapped or deaf-blind *(34 CFR 21.507)*
- know why a particular placement was chosen over another *(19 TAC 89.221(b); 34 CFR 300.533)*;
- tape record any ARD committee meeting after first informing all members attending that a recording is being made *(19 TAC 89.221(i))*;
- sign the IEP to show that you were present at the meeting *(19 TAC 89.221(c))*;
- indicate on the IEP agreement or disagreement with the decisions made by the committee (you may include a written statement of why you disagree) *(19 TAC 89.221(c))*;
- give consent the first time your child is placed in special education. If you refuse consent, the school may request a due process hearing to show that your child should be evaluated or placed without your consent. Consent is needed only for initial placement and not for any subsequent changes in your child's IEP. *(34 CFR 500.504(b)(c))*

INDIVIDUAL EDUCATIONAL PLAN (IEP) DEVELOPMENT

The IEP, developed by the ARD committee, is based on educational need identified during the assessment process. The IEP states the services your child needs and how those services will be provided. The IEP describes your child's educational program and any modified essential elements of the Texas State Curriculum (Chapter 75) necessary for the program to meet student needs. *(19 TAC 75.4; 19 TAC 89.223; 34 CFR 300.346)*

It is acceptable for a draft version of the IEP to be developed by school personnel prior to the meeting. However, ARD committee members should have the opportunity at the meeting to revise the IEP if appropriate.

Your child has the right to an IEP that:

- is developed before placement in special education *(34 CFR 300.392(b)(1))*;
- is implemented as soon as possible after giving you five school days notice of the proceedings of the ARD committee meeting;
- includes your child's current skills and abilities;
- includes short-term objectives and annual learning goals *(19 TAC 89.223(a)(2)(3))*;
- includes any changes in the content or mastery level of the essential elements of the Chapter 75 curriculum based on individual needs;
- includes the specific services to be provided through regular education, special education, and related services *(34 CFR 300.346(c))*;
- includes how much time your child will spend in regular education, special education, and related services *(19 TAC 89.223(a)(4)(A))*;
- includes the position of the person providing any related services;
- includes modifications needed for success in regular, remedial, or supportive programs, and required curriculum and extracurricular activities, if any *(19 TAC 89.223(a)(4))*;
- includes projected dates for beginning and ending special education and related services *(34 CFR 300.346(d))*;
- includes criteria and schedule for evaluating progress to see if the goals and objectives are being met; *(19 TAC 89.223; 34 CFR 300.346)*;
- includes modified standards, if necessary, for participation in extracurricular activities *(TEC 21.920)*
- is reviewed at least once a year to assess progress and make changes, if needed *(19 TAC 89.221(b)(10); 34 C.F.R. 300.346(e))*;
- includes any exemptions from the Texas Educational Assessment of Minimum Skills (TEAMS) *(19 TAC 89.223(a)(4)(E))*; and
- may include procedures and methods of behavior management and discipline to be used with your child.

If your child is visually handicapped or autistic, the IEP will include other sections. You can get an explanation of these sections from the school *(19 TAC 89.223(b)(c))*. The IEP may also include other areas at the discretion of the ARD committee.

RELATED SERVICES

The term "related services" means developmental, corrective, and supportive services, including transportation, which your child may need to benefit from education, special or modified regular.

The ARD committee decides which, if any, related services are needed based on assessment data and includes them in the IEP. The school must provide the related services that the ARD committee deems necessary for the student to benefit from instruction. These related services are provided by the school at no cost to the parent and should be delivered by qualified personnel. Many kinds of related services may be provided: art therapy, audiological services, corrective therapy, counseling services (parent and student), medical services for diagnostic purposes, music therapy, occupational therapy, orientation and mobility training, parent training, physical therapy, psychological services, recreation therapy, school health services, social work services, special transportation, speech therapy, visual therapy, provision of adaptive equipment, and other services approved by the Texas Education Agency. *(34 CFR 300.13; TEC 16.104(b)(1)(B); 19 TAC 89.217)*

EDUCATIONAL PLACEMENT

Your child has the right to be placed in the least restrictive appropriate environment. This means that your child will:

- be placed in the educational setting which meets the individual needs stated in the IEP *(34 CFR 300.552(a)(2))*;
- remain in the regular education classroom as long as the setting is appropriate and as long as your child's presence in the classroom does not disrupt the education of other students *(34 CFR 300.550)*;
- be considered for a variety of educational settings, including those within the local school district, home instruction, special schools, approved nonpublic schools, institutions, or residential placements *(34 CFR 300.551)*;
- be removed from the regular education classroom only when supplementary aids and services have been tried and not worked *(34 CFR 300.550)*;
- be placed in a program as close to home as possible *(19 TAC 89.218(3))*
- be educated, to the extent appropriate, with nonhandicapped students *(19 TAC 89.218(b), 89.221(b)(c), 89.235(b); 34 CFR 300.550)*;
- have the educational placement reviewed at least once each year *(34 CFR 300. 552(a)(1), 19 TAC 89.221(b)(10))*; and
- have the same opportunity to participate in extracurricular activities (such as school clubs, sports, musical groups), meals and recess as nonhandicapped students. *(34 CFR 300.553; 19 TAC 89.218(b))*

Unless you agree to an earlier meeting, you must be notified at least five school days before the school plans to change, or refuses to change, the educational setting of your child. *(19 TAC 89.229(b)(1))*

EXTRACURRICULAR ACTIVITIES

Students will be suspended from extracurricular activities if they make a six-week grade below 70 in any academic class. All students are subject to this rule. However, if the ARD committee determines that your child's handicap interferes with the ability to meet regular academic standards, modifications to those standards will be noted in your child's IEP. Suspension from extracurricular activities will be based on failure to meet those modified standards. *(TEC 21.920(b)(c))*

The ARD committee will:

- identify the courses in which your child's handicap significantly interferes with his or her ability to meet academic standards *(19 TAC 89.221(b)(6))*;
- establish standards and a schedule for evaluating your child's academic progress which allows for determining eligibility for extracurricular activities *(19 TAC 89.223(a)(4)(D))*; and
- review the IEP if your child does not receive passing grades under the modified standards in all courses for two consecutive six-week reporting periods. *(19 TAC 89.221(b)(11))*

DISCIPLINE OF HANDICAPPED STUDENTS

A handicapped student is subject to the school's student code of conduct unless otherwise stated in the IEP. Discipline is part of the educational process. It prepares a student to work with other people in a socially acceptable manner. You should receive a copy of your school's code of conduct and changes as they are made. Request a copy if you have not already received one or if you need an additional copy. Each year you will be asked to sign a statement that says you understand the student code of conduct and agree to the responsibilities outlined in it. *(19 TAC 133.22(b))* Your child's IEP may outline disciplinary options to be used in addition to the code or instead of certain parts.

In some cases, inappropriate behavior may cause your child to be removed from classes and school for a few days or to be sent to an alternative education program such as a supervised setting separate from regular classes. In either case, your child will be able to complete assignments and still earn course credit. *(19 TAC 133.28(2)(3))* If your child commits a serious offense, such as hitting a teacher or another student, or continues to be incorrigible as defined in Board rules or local policy, he or she may be expelled from school. *(19 TAC 133.27; 133.28(6))* However, before a handicapped student may be expelled, the ARD committee must determine that the misconduct was not due to the student's handicap or an inappropriate placement. *(19 TAC 133.28)* The ARD committee will also determine which educational services your child will receive while he is expelled. Educational services cannot be stopped for a handicapped student.

GRADUATION

A handicapped student's secondary education ends either when the student graduates or reaches 22 on or before September 1. A handicapped student who has not reached 22 by September 1 is eligible for services through the end of that scholastic year.*(19 TAC 89.220(a))* A student may graduate under either of the following circumstances:

- The ARD committee determines that the academic credit requirements for graduation which apply to nonhandicapped students have been met. Parental consent for graduation is not required.
- The student has completed modified graduation requirements developed by the ARD committee and specified in the IEP. The ARD committee recommends graduation and parental consent is required. If your child graduates under this option, you or your child may request that educational services be continued until he/she reaches 22 years old. *(19 TAC 89.235(g))*

EARNING ACADEMIC CREDIT

Credit is earned when a handicapped student demonstrates the minimum competencies for a passing grade expected for nonhandicapped peers **or** as specified in the IEP. The State Board of Education has approved a list of courses for which state credit toward graduation can be earned. When your child passes courses from the Board approved list, with or without modifications, state credit is earned.

When courses are entirely regular education or combined with special education but the content or mastery level of the essential elements has not been modified, the transcript will reflect regular education credit. In this case, the method of presenting the material or measuring your child's performance may be modified, e.g., providing an interpreter or allowing additional time for testing. When the instruction is provided entirely in special education or combined with regular education, but the content or mastery level of the essential elements of the course has been modified, the transcript will be coded with an S to indicate special education credit.

Handicapped students in specially designed courses not on the state approved list earn local credit toward graduation through completion of the IEP. *(19 TAC 75.153; TEC 21.257)*

TEXAS EDUCATION ASSESSMENT OF MINIMUM SKILLS (TEAMS)

Beginning with the graduating class of 1987, all students must pass exit-level tests demonstrating mastery of basic skills for mathematics and English language arts in order to receive a high school diploma. For handicapped students, modifications of classroom procedures specified in the IEP and allowed under Board rules, e.g., providing an interpreter, allowing oral responses to test items, must be provided during the testing. *(19 TAC 101.3(b)(c)(e))* If the ARD committee determines that the student's handicap prevents mastery of some or all of the skills measured by the tests, the IEP will specify that the student is exempt from taking some or all of the tests. *(19 TAC 101.3(e), 89.223(a)(4)(E))* The transcript will reflect whether the TEAMS was taken.

PROCEDURES REGARDING EDUCATIONAL RECORDS

As a parent, you have the right to:

- receive a list of the type and location of your child's educational records which are collected, maintained, or used by the school *(34 CFR 300.565)*;
- inspect and review all of your child's educational records without unnecessary delay and before any IEP meeting or due process hearing, and in no case more than 45 days after your request *(34 CFR 300.562(a))*;
- have a person of your choice inspect and review your child's educational records *(34 CFR 300.562(b)(3))*;
- have copies of your child's educational records made. The school may charge a reasonable copying fee but may not charge for assembling the records *(34 CFR 300.566)*;
- request that the school give you copies of educational records at no charge if the charge would prevent you from obtaining the educational records *(34 CFR 300.562, 300.566)*;
- have school personnel explain or interpret any item in the education records *(34 CFR 562(b)(1))*;
- see a list of those persons, besides you or authorized school employees, who have seen your child's educational records and why they saw them *(34 CFR 300.563)*; and
- request a change in the educational records if you think there is a mistake *(34 CFR 300.567(a))*;
  - if the school will not change the statement, you may ask for a hearing to decide if the educational records should be changed. This hearing is not the "impartial due process hearing" discussed on page 16 in this booklet. *(34 CFR 300.568)* The hearing to determine whether educational records should be changed shall include at least the following elements:
    a. The hearing shall be held within a reasonable period of time after the school has received the request. You will be notified of the date, place, and time reasonably in advance of the hearing. *(34 CFR 99.22(a))*
    b. The hearing may be conducted by anyone, including a school employee, who does not have a direct interest in the hearing's outcome. *(34 CFR 99.22(b))*
    c. You will have a full and fair opportunity to present evidence, and may be aided or represented by individuals of your choice, including an attorney, at your expense. *(34 CFR 99.22(c))*
    d. The school will make its decision in writing within a reasonable period of time after the hearing is over. *(34 CFR 99.22(d))*
    e. The decision of the hearing officer will be based solely upon the evidence presented at the hearing and the officer will summarize the evidence and the reasons for the decision.
  - if the result of the hearing is that the records should not be changed, then you may include your own statement in the educational records *(34 CFR 300.569(b))*;

- if the result of the hearing is that the record should be changed, the records will be changed *(34 CFR 99.21(b))*;

- be notified by the school when your child's educational records are no longer needed. You may then request that personally identifiable information in those records be destroyed. Before you request that the school destroy this information, be certain that it will not be needed for other purposes (such as applying for social security benefits, college, rehabilitation services);

- the school may keep without time limitation a permanent record of the student's name, address, telephone number, grades, attendance record, classes attended, and grade level and year completed. *(34 C.F.R. 300.573)*

IF YOU HAVE A PROBLEM

Parents and school personnel, on occasion, find themselves disagreeing about the student's educational program or services. Generally, this disagreement can be resolved through open communication.

It is helpful that you make your concerns known to the right person. The first step is to contact the school principal, or the special education director. They can arrange an ARD committee meeting or a conference with your child's teacher(s) and other school people. Depending upon the problem, it may be helpful to meet with the special education director, school superintendent or board of trustees to resolve the disagreement. If you are not satisfied after discussing your concerns with the school personnel, there are other actions you can take.

COMPLAINT PROCESS

If you feel the school has disregarded federal or state requirements in educating your child and you cannot resolve matters locally, you may file a written complaint with the Texas Education Agency and request an investigation of the requirement you think has been violated.

Your written complaint should state that you believe the school has violated a federal or state regulation. Also include the facts upon which the statement is based. Upon receipt of the written complaint, Agency personnel will investigate and give you a written report of findings in a timely manner. The goal is to complete the complaint investigation process within 60 days. You have the right to request that the U. S. Secretary of Education or a delegate of that office review the final decision of the state.

To file a complaint with the Texas Education Agency, contact:

Special Education Compliance
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

For further information call toll free: 1-800-252-9668 *(20 U.S.C. 1221e 3(a)(1), 19 TAC 89.229(c))*

MEDIATION PROCESS

Issues resolved through mediation generally deal with matters of judgment and local practice rather than federal and state requirements. The Agency has special education staff trained in the mediation process. If you want to initiate mediation, a staff member will be assigned by the Agency (as an impartial third person) to discuss the problem with you and the school. Satisfactory solutions for both parent and school are frequently reached in mediation. You may begin the mediation process in two ways:

- When the Commissioner of Education receives your written request for a hearing (see #4 under Hearing Process), a mediator is notified and a hearing officer is appointed. If it looks as though mediation may help, someone from the mediation staff will contact you promptly to ask whether you are interested in mediating the problem.

- You may request mediation directly, whether or not you have requested a hearing, by writing:

  Special Education Compliance
  Texas Education Agency
  1701 North Congress Avenue
  Austin, Texas 78701

To use the mediation process, both you and the school must agree to participate. If you and the school reach an acceptable solution, you both should abide by the agreement in good faith. If you cannot reach a solution, you may proceed with a due process hearing. Mediation cannot be used to deny or delay a parent's right to a hearing. *(19 TAC 89.229)*

HEARING PROCESS

You have the right to request a hearing with an impartial hearing officer. An impartial hearing officer, who is not an Agency employee, is a lawyer appointed by the Commissioner of Education to conduct hearings about grievances involving education of handicapped students. The hearing officer must have no personal or professional connection with the school. The hearing officer conducts the hearing and sends a written decision to the parent, the school, and the Commissioner of Education. The following steps are taken during the hearing process:

1. You should file your request for a hearing, if possible, within 15 days after the ARD committee makes a decision, fails to act, or takes action with which you do not agree. Failure to file your request within 15 days does not affect your right to a hearing. If you fail to request a hearing promptly, the school may act on the ARD committee decisions.
2. The request for a hearing must be made in writing and must explain why you want the hearing. Be sure to include the phone number where you can be reached during business hours so the hearing officer can contact you without delay.
3. One copy of the request for a hearing should be addressed to the school's board of trustees and delivered to the superintendent's office.
4. Another copy of the hearing request should be sent immediately to the Commissioner of Education. The address is:

   Commissioner of Education
   Texas Education Agency
   1701 North Congress Avenue
   Austin, Texas 78701

5. Upon receiving your written request for a hearing, the Commissioner will immediately forward your request to a hearing officer. The hearing officer will contact you promptly to set a hearing date which is usually scheduled within 10 to 15 days. The hearing will be held as close as possible to your home or work.
6. During the hearing you will present your side of the problem to the hearing officer and the school will present its side. Although you do not have to be represented by a lawyer, you should understand that one could be very helpful. The hearing is formal and complies with legal procedures for administrative hearings.
7. You should ask the school about any free or low-cost legal and other relevant services available in the area. *(34 CFR 300.506(c))*

8. The hearing officer is required by law to make a final decision within 45 days of receiving your request for a hearing. Time extensions may be granted by the hearing officer at your request or the school's.

9. Both you and the school will receive a copy of the hearing officer's decision and a written record of the hearing. *(34 CFR 300.512)*

10. The hearing officer's decision is final unless appealed by either you or the school in state or federal district court. *(34 CFR 300.509, 300.511)*

In the hearing process both you and the school have the right to:

- be represented by a lawyer or aided by persons with special training or knowledge about handicapped students' problems;
- present evidence, confront, cross-examine, and subpoena witnesses (subpoenas should be requested of the hearing officer assigned to your case);
- prohibit any evidence from being presented at the hearing that has not been disclosed to you or the school at least five days before the hearing;
- obtain a written transcript of the hearing; and
- obtain a written decision within 45 days of the initial request for the hearing.

When involved in hearings you have the right to:

- have the hearing at a reasonably convenient time and place *(19 TAC 157.97)*;
- have your child present at the hearing;
- open or close the hearing to the public *(34 CFR 300.508(b))*; and
- as a general matter, have your child stay in his or her present educational setting during the hearing, until all appeals are final, unless you and the school agree otherwise. *(34 CFR 300.513)*

Federal legislation is now pending which, if enacted, may affect your right to receive an award for attorney's fees. Please contact your local school district or the Texas Education Agency for further information.

THE CHILD-CENTERED PROCESS

	STEP	WHAT HAPPENS?	WHEN?	WHY?
1.	• comprehensive individual assessment	• referral information received by special education • notice of proposed assessment given to parents • parents' consent required for initial assessment • testing of student	• within 30 school days from the time special education receives referral information • at least every 3 years thereafter for students placed in special education	• to provide the information to the ARD committee for making educational decisions
2.	• admission, review, and dismissal (ARD) committee meeting	• prior notice of ARD committee meeting given to parents • existence of a handicap and special education needs are determined • educational program is developed	• within 30 calendar days from the time the written assessment report is completed • reviews IEP at least annually; more frequently, if necessary	• to make educational decisions
3.	• individual educational plan (IEP) (if student qualifies for special education)	• goals and objectives for student learning are set • services to be provided are outlined • parent consent required before services begin	• developed during the ARD committee process • carried out for the time period stated on the IEP	• to make sure that educational program meets individual needs of student
4.	• IEP review	• ARD committee reviews progress on educational objectives • makes changes in IEP or orders reappraisal, as necessary	• at least annually • more frequently if necessary	• to ensure that the IEP continues to meet the student's needs

RECEIPT FOR RIGHTS BOOKLET

NAME OF STUDENT _____

DATE OF BIRTH _____ SCHOOL _____

This is to verify that I have received a copy of *Special Education: Parent and Student Rights, 1986* which informs me of my rights throughout the child-centered educational process for handicapped students. These rights have been explained to me by

_____, _____
name position

on _____.
date

I understand that my rights include the right to receive:

(1) this and all other written notices in the language I understand (primary language) or, if needed, a translation of such orally, in sign language or in braille as appropriate, and

(2) answers from school personnel to additional questions I may have.

My signature below indicates that I received the booklet and understand its contents.

_____
SIGNATURE OF PARENT, GUARDIAN, OR ADULT STUDENT

DATE SIGNED _____

COMPLIANCE STATEMENT

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

(1) acceptance policies on student transfers from other school districts;

(2) operation of school bus routes or runs on a non-segregated basis;

(3) nondiscrimination in extracurricular activities and the use of school facilities;

(4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;

(5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;

(6) nondiscriminatory practices relating to the use of a student's first language; and

(7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, Department of Health, Education and Welfare.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964; EXECUTIVE ORDERS 11246 AND 11375; TITLE IX, 1973 EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; AND VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED IN 1974.

It is the policy of the Texas Education Agency to comply fully with the nondiscrimination provisions of all federal and state laws and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any programs or activities which it operates on the grounds of race, religion, color, national origin, sex, handicap, age, or veteran status (except where age, sex, or handicap constitute a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency makes positive efforts to employ and advance in employment all protected groups.

Texas Education Agency
1701 North Congress Avenue
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GE6 330 01
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